

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

MARTIN WALSH Secretary of
Labor, United States Department of Labor,

Plaintiff,

v.

**DAYEMI ORGANIZATION, INC. d/b/a
LONGBRANCH CAFE AND BAKERY**, an
Illinois corporation, and **ELAINE RAMSEYER
GREENBERG**, an individual,

Defendants.

Civil action no.: 21-cv-00056-SMY

DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO STRIKE (DOC. 35)

NOW COME Defendants Dayemi Organization, Inc. d/b/a Longbranch Café and Bakery, an Illinois corporation, and Elaine Ramseyer Greenberg, an individual, by and through their attorney, Shari R. Rhode of the Rhode Law Firm, and submit their Response to Plaintiff's Motion to Strike (Doc. 35).

Plaintiff's Motion "to strike the jury demand regarding [Defendants'] good faith affirmative defense" is unwarranted and unnecessary. Defendants made no jury demand for this affirmative defense. As Plaintiff acknowledged to the Court, Defendants only requested "a jury trial of all issues triable by a jury" (Doc. 36 Page ID #435).

In its Motion, Plaintiff states that "Defendants oppose this Motion." Doc. 35 Page ID #431. To be accurate, when Plaintiff asked Defendants to voluntarily strike their jury demand as to their affirmative defense of good faith, Defendants responded in an email dated May 23, 2022, a copy of which is attached as Exhibit A, that the Motion was unnecessary because Defendants had only made a jury demand for "issues triable by a jury" (Doc. 13). While liquidated damages are to be

determined in the Court's discretion, even the Plaintiff acknowledged in its Motion, "[t]he jury may provide an advisory opinion to the Court regarding the Secretary's entitlement to liquidated damages." (citation omitted Doc. 36 Page ID #436 fn). Defendants went on to say that "the Court may allow the jury to make an advisory decision even the Court *will* make the ultimate decision on whether the Defendants acted in good faith." (emphasis added).

Conclusion

The Court is respectfully requested to deny Plaintiff's Motion to Strike as unnecessary.

Respectfully submitted,

By: /s/Shari R. Rhode
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CERTIFICATE OF SERVICE

I certify that on May 27, 2022, a copy of the foregoing Defendants' Response to Plaintiff's Motion to Strike (Doc. 35) was electronically filed with the United States District Court, Southern District of Illinois, via the Court's CM/ECF filing system and also served a copy upon:

Elisabeth Simcox Nolte
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/s/ Shari. R. Rhode
Shari R. Rhode